

REMARKS

Prior to entry of this paper, Claims 1-30 were pending. Claims 1-30 were rejected. In this paper, Claims 1, 4, 9, 13, 15-17, 20, and 23-30 are amended. Claims 1-30 are currently pending. No new matter is added by way of this amendment. For at least the following reasons, Applicants respectfully submit that each of the presently pending claims is in condition for allowance.

Claim Rejections – 35 USC § 101

Claims 17-22 were held rejected under 35 U.S.C. 101, because the claimed invention is directed to non-statutory matter.

After reviewing the grounds of this rejection, it is respectfully submitted that these claims are statutory for at least the following reasons:

1. The “instructions” and “interface application” correspond to computer programs which are recited as part of an otherwise statutory apparatus. Specifically, the logical instructions of Claim 17 are recited with components of a server that define the structural and functional interrelationships between the logical instructions and other claimed elements of the server which permit the logical instructions’ functionality to be realized. The interface application of Claims 21 and 22 is also recited in such a manner. The detailed description of the rejection for Claims 21 and 22 explicitly acknowledges that these claims involve a system and computer program. In such instances, the claims remain statutory irrespective of the fact that a computer program is included in the claims. Particularly, it is respectfully submitted that, since the logical instructions and interface application are recited in conjunction with a physical structure, such as the computer memory, these claims should be treated as a product claim, as is further discussed in MPEP 2601.01. It is further noted that elements such as the graphical interface, entry box, and control means in Claim 22 further confirm that these claims are directed to product claims, not a process claim.

2. The “actions” that are caused to be performed by executing the logical instructions do not specify how the server is used, but rather, they describe what the server does. That is, they represent the function of the server. The use of such functional language does not render a claim improper. Instead, these actions fairly convey to a person of ordinary skill in the pertinent art that the actions of “receiving at least a budget”, “receiving a selection”, “determining an automatic

placement”, and “enabling a display”, as further defined in the claims, are implemented features of the processor. Such functional limitations are used in association with the element of a processor to define a particular capability or purpose that is served by the recited processor. Again, such a functional description of the apparatus is an acceptable form of claiming a product, as is further noted in MPEP 2173.05(g).

Upon further review of these claims, and in light of the above discussion, it is respectfully submitted that Claims 17-22 are drawn to a single category of invention and are appropriately defined to fall within that category. As such, these claims meet the statutory requirements of 35 U.S.C. §101. Accordingly, withdrawal of these rejections under 35 U.S.C. §101 is respectfully requested.

It is further respectfully submitted that the above responses suffice to overcome the grounds of rejection under 35 U.S.C. §112 also applied to Claim 17-22. For at least the same reasons listed above, it is respectfully submitted that these claims are not drawn to two statutory classes, but are properly drawn toward one. As such, these claims are sufficiently precise to meet the requirements of 35 U.S.C. §112, 2nd paragraph, since they point out and distinctly claim a server. Accordingly, withdrawal of these rejections is also respectfully requested.

Claims 23-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With this paper, Claims 23-29 have been amended to be directed toward a computer readable storage medium. Such an amendment defines the previously claimed “instructions” to be stored on the computer readable medium. As such, these instructions are structurally and functionally interrelated to the medium and are statutory since use of technology permits the function of the instructions to be realized.

Claim Rejections – 35 USC § 112

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, since the recitations, enabling a budget to be provided, enabling a selection, enabling a placement, and enabling a display all render the claim indefinite, because it is unclear what the Applicant means by this statement.

With this paper, these limitations have been amended to clearly recite that the claimed method positively comprises each of the steps of providing a budget, selecting a method, automatically placing a bid, and displaying predetermined content, as is further represented in Claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 1 is also rejected under 35 U.S.C. 112, second paragraph, because the recitation "enabling a selection of at least one method," is considered indefinite. With this paper, the limitation of "selecting" has been amended to clarify the "predetermined" nature of the method, as well as the involvement of the method with optimizing a bid, as is further represented in amended Claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 1 is also rejected under 35 U.S.C. 112, second paragraph, because the limitation of providing a budget for placing a bid on a keyboard [sic] was held to have nothing to with the rest of the claim. With this paper, the influence of a budget on the placing of a bid has been further clarified in terms of providing the budget information for use with the selected predetermined method. Such a claimed connection clearly indicates and asserts the patentable weight for providing the budget. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 1 is also rejected under 35 U.S.C. 112, second paragraph, because the recitation for displaying predetermined content that is associated with at least one bid for the keyword is held to be unclear, since from the recitation it can't be determined if the display of the predetermined content is associated with a bid or with a keyword. With this paper, it is respectfully submitted that the pertinent limitation of Claim 1 has been amended to clearly define that the predetermined content is associated with the recited "at least one bid". Accordingly, withdrawal of this rejection is respectfully requested.

Claim 1 is also rejected under 35 U.S.C. 112, second paragraph, because the limitation that the display of the predetermined content is associated with at least one bid for the keyword and whose value is employed to acquire placement of predetermined content is unclear, since it can't be determined what does value is employed to acquire placement have to do with keyword. With this paper, the pertinent limitation of Claim 1 has been amended to clarify that the claimed "value" is that of the "at least one bid". Accordingly, withdrawal of this rejection is respectfully requested.

Claims 4, 15 and 20 are rejected under 35 U.S.C. 112, second paragraph, since it is unclear what the Applicant means by selecting how to place a bid by one of the methods including maximum cost for maximum acquisitions, shortest time for maximum acquisitions, time interval budget, and custom. With this paper, Claims 4, 15, and 20 have been amended to further clarify that the methods are a plurality of methods with optimization of bids, of which at least one is included in the step of "selecting" as further detailed in Claims 1 and 4. The implication of selecting a method has also been further clarified with respect to Claim 1, from which Claim 4 depends. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 6 and 10 are rejected under 35 U.S.C. 112, second paragraph, since from independent claim 1, the limitation of providing a budget for placing a bid on a keyboard has nothing to do with the rest of the claim, since the rest of the claim deals with the placing a bid on a keyboard, so the limitation of "enabling at least a budget to be provided for" is not given any patentable weight.

With this paper, Claim 1 has been amended to clarify the involvement of an enabled budget with the placement of a bid. So far as such an amendment requires the related limitation of Claim 1 to be given patentable weight, it is respectfully submitted that these claims, Claims 6 and 10, have been clarified to have patentable weight as well with respect to the placement of a bid. Accordingly withdrawal of this rejection under 35 U.S.C. §112 is respectfully requested.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, since it is unclear what the Applicant means by the limitation that a time interval comprises a time zone.

With this paper, Claim 9 has been amended to clarify that “time zone” is a provided information comprised by the provided information of a time interval. As such, it is respectfully submitted that it is clear that the provided information of a time interval includes indication of a time zone. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, since the recitations, providing a keyword, advertising text, and a total number of clicks to be bid on for each keyword over time, wherein each bid for each keyword is employed by the sponsored search to rank placement of advertising text at a position on a displayed list that is generated by the sponsored search in response to a request for at least one provided keyword renders the claim indefinite.

With this paper, Claim 13 has been amended to clarify that the initially referenced “at least one keyword” corresponds to the same number of keywords as “each provided keyword”. The initial use of the term “at least one” comprises either number of one or a plurality of keywords. This same initial number is referenced throughout the claim for the “provided keyword”, including by the term “each”. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 13 is also rejected under 35 U.S.C. 112, second paragraph, because it is unclear what the Applicant means by total number of clicks to bid on for each keyword over a period of time, since you can either select to bid by a total number of clicks or by an amount of time.

With this paper, the clause of “over a period of time” has been moved to immediately follow the clause “total number of clicks”. As such, Claim 13 clearly recites that selecting to bid is based on “a total number of clicks over a period of time”, not one or the other. This amendment serves to clarify the claim, but is not to be construed as, by itself, narrowing or otherwise modifying the scope of the claimed invention.

Claim 13 is also rejected under 35 U.S.C. 112, second paragraph, because it is unclear as stated if you are bidding on each keyword or if you are bidding per click or if the two are the same thing.

As amended, **Claim 13** recites, “a total number of clicks over a period of time to be bid on for each provided keyword”. As such, the clicks are clearly bid on with regard to each provided keyword. Clicks and keywords are not the same thing, as represented in Claim 13, but they are related, as is further defined therein. Withdrawal of this rejection is respectfully requested.

Claim 13 is also rejected under 35 U.S.C. 112, second paragraph, because the phrase bid depends on the budget and the total number of clicks to be bid on is incomprehensible.

With this paper, the total number of clicks to be bid has been amended to be associated with an estimated number of clicks on the advertising text in the displayed list. As such, a source and counting of clicks is clarified in the claims. The budget and total number of clicks are two grounds upon which each bid for a keyword is made. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 13 is also rejected under 35 U.S.C. 112, second paragraph, because it can't be determined what the Applicant means by the displayed list. The step of providing at least one keyword, located in an earlier limitation in Claim 13, recites "a displayed list that is generated by the sponsored search in response to a request for at least one keyword of the at least one provided keyword". As such, this reference to "the displayed list" in the limitation that begins "in response" is referring to this same limitation and can be at least determined by the context that initially determines this same displayed list.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, since the limitation of one provided keyword further comprising at least one generated keyword that is related to the one provided keyword renders the claim indefinite.

With this paper, Claim 16 has been amended to clarify that the initially recited "at least one keyword" comprises at least a generated keyword that is related to another of the at least one provided keyword. The phrase "the at least one provided keyword", as recited here, would include at least two keywords, wherein both are provided, and at least one is related to another one. Accordingly, withdrawal of this rejection is respectfully requested.

Along with reasons addressed above, **Claim 17** is rejected under 35 U.S.C. 112, second paragraph, because enabling a display is indefinite as well, since it is unclear if there is or is not a display.

With this paper, Claim 17 has been amended to positively recite that there is a display for advertiser data. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, since a carrier-wave signal wherein acquiring further comprises ranking, and the limitation of placing a bid is indefinite, since carrier-wave signal is not a method and acquiring, ranking, and placing a bid are method steps.

First, as noted above, Claims 24 and 25 have been amended to be directed toward a computer readable storage medium. Further, and similar to what was noted above for Claims 17-22, placing a bid and acquiring are not method steps. Rather, they are actions that are caused to be performed by executing logical instructions. Such limitations represent functional limitations for Claims 24 and 25, which, as noted above, is an acceptable manner of defining a particular capability that is served by the recited processor. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 26-29 are rejected under 35 U.S.C. 112, second paragraph, since a carrier-wave signal wherein a method comprises something else, a keyword comprises something else, or providing a profile is indefinite, since a carrier-wave signal is not a method.

It is respectfully noted however, that the terms “keyword” and “method” in these claims refer to limitations explicitly provided for in parent claim, Claim 23. As such, these claims, Claims 23-29 are definite at least by virtue of their dependency and relation to Claim 23. It is also further noted that Claim 23 has been amended to recite a computer readable storage medium, which is a physical structure that at least enables the functionality of these claims to be realized the processor further claimed in independent Claim 23. Accordingly, withdrawal of this rejection is respectfully requested.

Claim Rejections – 35 USC § 102

Claims 17-22 are rejected under 102(b) as being anticipated by Davis et al. (Patent Number 6,269,361 hereinafter Davis).

With this paper, Claim 17 has been amended to clarify the distinction, and thus patentability, of the claimed invention over the applied prior art – including Davis. The amendment particularly clarifies the operations of the selected method. Support for this amendment can be found throughout the application as originally filed, and particularly on page 4, lines 1-10 and page 6, lines

20-23 and page 10, lines 17-24 of the specification and Figures 5 and 6 of drawings. Page 6, lines 21-22 of the specification as originally filed particularly mentions “bidding on acquisitions” for the “cost per acquisition” methods, the implications and nature of which provide particular support for the amendments mentioned as follows.

As discussed in more detail above, the actions of the processor are not uses for the processor. Rather, they are functional limitations that properly claim the realized functionality of the logical instructions executed on the processor. One such action of Claim 17 has been amended to recite:

receiving a selection of at least one method for placing at least one bid for the keyword in the result from the sponsored search, wherein the at least one selected method optimizes a plurality of separate bids and corresponding keywords, and wherein the optimization is based on an estimated number of clicks on data in a result from a sponsored search;

After carefully reviewing Davis, it is respectfully submitted that Davis does not teach or suggest at least such a limitation. The selections of Davis – the “Change Bids” and “Change Rank Position” options – cited in the most recent Office Action do not anticipate nor render obvious at least the latter half of this limitation. The “Change Bids” selection directly receives and applies bid amounts (col. 18, line 55-col. 19, line 7). This direct entry of new bid information does not teach or suggest an “algorithm” nor “optimization”, much less bids that are commonly optimized with respect to “an estimated number of clicks” as is further claimed in amended Claim 17. Similarly, the “Change Rank Position” option of Davis involves the individual management of bids with respect to rankings (col. 19, lines 45-58). The concept of “advantageous” position, as noted as the purpose of “rank” in Davis (see col. 13, lines 13-24), does not teach or suggest the involvement of a particular number of clicks, including as is further claimed in Claim 17. An assessment of acquisitions or clicks is simply not included in either of these options, including in the particular manner further claimed in Claim 17. Even the option to project a daily run rate in Davis (see col. 21, lines 1-53) does not teach or suggest the use of such information which “optimizes a plurality of separate bids” as is further claimed in Claim 17. In Davis, the collection of information, separate from the ability to manipulate rank and explicit bid amounts, simply does not teach or suggest the common application of a number of clicks – in the past or estimated for the future - to optimize a

plurality of separate bids as is further claimed in Claim 17. For at least these reasons, withdrawal of the rejection of Claim 17 is respectfully requested.

So far as **Claims 18-22** depend on Claim 17, and comprise limitations involving proper patentable weight, it is respectfully submitted that these claims are not taught or suggested by Davis at least by virtue of their dependency. Accordingly, withdrawal of these rejections is respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1-9, 14-16, 23-28, and 30 are rejected under U.S.C. 103(a) as being unpatentable over Davis in view of Breen, Jr. et al. (Patent Number 6,598,027 hereinafter Breen).

With this paper, **Claims 1, 23, and 30** have been amended with a similar, albeit different, limitation to that discussed above with regards to Claim 17. As also discussed above, Davis does not teach or suggest such a limitation.

With regard to Claims 1, 23, and 30, it is respectfully submitted that Breen also does not teach or suggest an amended limitation.

Similar to discussed above, Davis does not at least teach or suggest the limitation in Claim 1, for example, of:

selecting at least one predetermined method for placing at least one bid for the keyword in the result from the sponsored search, wherein the at least one selected method implements an algorithm that optimizes a plurality of separate bids and corresponding keywords, and wherein the optimization is based on an estimated number of clicks on data in a result from a sponsored search

Breen teaches automatic bid placement (col. 21, line 30 – col. 22, line 28). However, the context of Breen involves a single bid and bid amounts for material goods (col. 21, lines 30-35; col. 22, lines 1-6). No form of “clicks on data in a result from a sponsored search”, as further claimed in Claim 1, is addressed in the context of such a bidding process. In fact, the ‘real’ or known nature of the goods, such as by a “quantity” value of the initial listing (see col. 2, lines 9-13 of Breen) provides particular differentiation between the subject of the bidding of Breen and that of the claimed invention, the latter of which involves an “estimated number”. Bids in Breen are based on other bids, and not the products themselves (see col. 21, lines 30-35 of Breen). Yet the claimed

invention, at least in the language of Claim 1, provides a clear distinction between bids and clicks, at least so far as the former is determined based on the latter. Further, the bidding agent of Breen discusses only a single bid, increased incrementally, for a particular product offered for sale (col. 21, lines 54-59). Such a specific bid for the same underlying product, even when automatically increased, does not teach or suggest "a plurality of separate bids and corresponding keywords" as is further claimed in Claim 1. The individual nature of these bids and bidding increments also fails to further teach or suggest the optimization based on a common estimated number of clicks, as is further claimed in Claim 1. For at least these reasons, it is respectfully submitted that Davis, even in further view of Breen, does not teach or suggest the limitation, as amended, in Claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

So far as independent **Claims 23 and 30** have been amended to include similar, albeit different, limitations, it is respectfully submitted that these claims are not taught or suggested by the combination of Davis in view of Breen. Accordingly, withdrawal of the rejections for these claims is also respectfully requested.

So far as **Claims 2-9, 14-16, and 24-28** depend from or comprise limitations similar to that of Claims 1 or 23, and comprise limitations involving proper patentable weight, it is respectfully submitted that these claims are not taught or suggested by Davis in view of Breen at least by virtue of their dependency. Accordingly, withdrawal of these rejections is respectfully requested.

With further regard to **Claims 14-16**, it is respectfully noted that these claims depend on Claim 13, not Claims 1, 23, or 30. As such, it is respectfully noted that the grounds cited for rejection of these claims, Davis in view of Breen, do not properly correspond to the grounds cited for their parent claim, Claim 13, which included Davis in view of Breen and McGregor. For at least this additional reason, withdrawal of the rejection of these claims is respectfully requested.

Claims 10 and 29 are rejected under U.S.C. 103(a) as being unpatentable over Davis in view of Breen and further in view of McGregor (Publication Number US 2002/0026360 A1 hereinafter McGregor).

So far as **Claims 10 and 29** depend on Claims 1 or 23, and comprise limitations involving proper patentable weight, it is respectfully submitted that these claims are not taught or suggested

by Davis in view of Breen at least by virtue of their dependency. Though not previously applied, it is further respectfully submitted that McGregor does not cure these deficiencies, at least so far as the profile characteristics are used by an advertiser to select advertisements to be placed (para. 0069, for example), not optimize a plurality of bids as is further claimed in Claims 1 and 23. Accordingly, withdrawal of these rejections is also respectfully requested.

Claims 11-13 are rejected under U.S.C. 103(a) as being unpatentable over Davis in view of Breen and further in view of Mason et al. (Patent Number 6,401,075 hereinafter Mason).

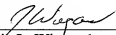
So far as **Claims 11-13** depend on Claim 1 or include limitations similar thereto, it is respectfully submitted that these claims are not taught or suggested by Davis in view of Breen at least by virtue of their dependency. Though not previously applied, it is further respectfully submitted that Mason does not cure these deficiencies, at least so far as purchasing of hits is not correlated to the amount paid for such a hits, including through optimization, as is further claimed in at least Claim 1 (see col. 5, lines 4-32 of Mason, for example). Accordingly, withdrawal of these rejections is also respectfully requested.

CONCLUSION

It is respectfully submitted that each of the presently pending claims (Claims 1-30) is in condition for allowance and notification to that effect is requested. Examiner is invited to contact the Applicants' representative at the below-listed telephone number if it is believed that the prosecution of this application may be assisted thereby. Although only certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentable. Applicant reserves the right to raise these arguments in the future.

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Respectfully submitted,

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